

### **REMARKS/ARGUMENTS**

In the Office Action mailed July 14, 2005 the Examiner affirmed the Applicants election of Group 1 invention and requested cancellation of the non-elected claims. The Examiner also examined claims 1, 3, 4, 6-9 and 14. Claims 1, 7, and 9 were rejected under 35 U.S.C. 102(b) as anticipated by U.S. Pat. No. 4,916,765 (Castronovo). Claims 3, 4, 6, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Castronovo. Claim 8 was rejected under 35 U.S.C. 1093(a) as being unpatentable over 6,360,388 (Langer) in view of Castronovo. The Applicant respectfully traverses these rejections.

#### **Amendments to the Claims**

The Applicant herein cancels the non-elected claims 2, 5, 10-13 and 15-20 as requested by the Examiner.

The Applicant amends herein claims 1 and 9 to distinguish the claimed invention from the cited art.

The Applicant adds new claims 21-24.

#### **Pillows are Non-Analogous Art**

Applicant first traverses the Examiner's rejection as the two cited references are non-analogous art. Applicant will go on the record stating that what makes a good pillow does not make a good test-cutting target. The purpose of a pillow is to distribute pressure over a larger surface by cushioning a point of contact, such as with a human. (See Langer, col. 1, line 39 stating that the prior art is "not capable of providing sufficient pressure reduction".) Distributing pressure in this way will interfere with the ability for a sword to effectively cut and therefore not provide an effective training tool for improving the ability of the practitioner. If pressure is reduced enough, an edged weapon will not cut at all.

The MPEP states that "In a simple mechanical invention a broad spectrum of prior art must be explored and it is reasonable to permit inquiry into other areas where one of ordinary skill in the art would be aware that similar problems exist." MPEP 2141.01(a) emphasis added. Applicant respectfully submits that since pillows solve a different problem than sword targets

and that what makes a good sword target makes a poor pillow and vice versa, the pillows are non-analogous art. Therefore, Applicant respectfully submits that the pending claims be allowed over Castronovo and Langer for at least this reason.

#### **Claim Rejection of Claims 1, 7, and 9 Over Castronovo**

Claims 1, 7, and 9 were rejected under 35 U.S.C. 102(b) as anticipated by U.S. Pat. No. 4,916,765 (Castronovo).

Regarding claim 1, Applicant submits that Castronovo does not teach or disclose an outer cylindrical tube, rather Castronovo discloses an outer cushion body having at least one lobe, a flat bottom surface and an upper surface with outwardly protruding rounded ridges. However, Applicant has amended claim 1 to now include a limitation that the outer cylindrical tube have a substantially smooth cutting surface on the exterior of the tube. This is shown in all the figures of the pending application and is necessary to provide an effective test-cutting target. For this reason, Applicant respectfully requests that the Examiner withdraw the rejection of claim 1 and find claim 1 and its dependent claims in a condition for allowance.

Regarding claim 7, the Examiner cites a possible not-fully-inserted configuration of Castronovo as showing the hole element in claim 7. Applicant respectfully points out that the "hole having a depth for receiving a peg from a test cutting stand" is in the inner cylindrical portion. The Examiner's interpretation would place this hole in the outer cylindrical surface which is not what is claimed. For this reason, Applicant respectfully requests that the Examiner withdraw the rejection of claim 7 and find claim 7 in a condition for allowance.

Regarding claim 9, Applicant submits that Castronovo when in the Examiner's proposed not-fully-inserted configuration would not retain the pillow when struck by an edged weapons. To clarify this difference between Castronovo and the present invention, Applicant herein amends claim 9 to include a limitation directed to that effect.

#### **Claim Rejection of Claim 8 Over Langer in View of Castronovo**

Claim 8 was rejected under 35 U.S.C. 1093(a) as being unpatentable over 6,360,388 (Langer) in view of Castronovo. To reject a claim under 35 U. S.C. 103(a) the Examienr must

show each and every element of the claim and then provide a motivation to combine the elements. MPEP 2142. Applicant submits that neither Langer not Castronovo show an indicia indicating where it is safe to cut the claimed target. Examiner states and Applicant agrees that Castronovo discloses cores of different color showing the relative density of the cores. However, this is not a safety indicator intended to protect the practitioner from injury, his weapon from damage and his retaining pin from total destruction.

Therefore, Applicant submits that the Examiner has not made a prima facie case of obviousness and therefore the rejection of this claim should be withdrawn. In addition, Applicant submits that since pillows are not cut, the claimed limitation in claim 8 are not disclosed in the cited references and the claim is in a condition for allowance.

### **New Claims**

Applicants herein add new claims 21-24. Claim 21-22 is distinguishable from Castronovo and Langer as it requires that the indicator be on the outer tube portion of the target. Claims 23 and 27 are distinguishable because the inner and outer portions (claim 1) or two or more materials (claim 9) of the target are irremovably attached (both Castronovo and Langer provide removable cores to allow the density to be changed and as the target will be destroyed when used, this is unimportant.) Claim 24 is distinguishable because outer tube portion of the target are seamless (both Castronovo and Langer provide seems for insertion of the core). Claim 25 adds the smooth cutting surface limitation to the claimed target of claim 9 which is not shown in the cited references as discussed with reference to claim 1. Claim 26 adds a safety indicia to the target of claim 9 which is not shown in the cited references as discussed with reference to claim 8. Claim 28 is a kit claim comprising test cutting targets and a retaining pin.

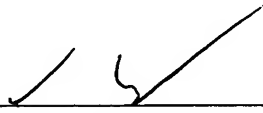
### **CONCLUSION**

Claims 1, 3, 4, 6-8, 9, 14 and 21-28 remain pending in this application. Applicant believes that all pending claims are now allowable for the reasons discussed above.

No fees are believed due for the submission of this Amendment. However, if this is not the case, please contact the undersigned immediately.

Respectfully submitted,

10/14/05  
Date

  
\_\_\_\_\_  
George C. Lewis, Reg. No. 53,214